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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,634	04/02/2004	Kia Silverbrook	HYG002US	9823
24011 7590 04/15/2009 SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, 2041 AUSTRALIA				
			EXAMINER HESS, DANIEL A	
			ART UNIT 2876	PAPER NUMBER
			MAIL DATE 04/15/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,634

Applicant(s)

SILVERBROOK ET AL.

Examiner

DANIEL A. HESS

Art Unit

2876

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 9-13, 16-20 and 38-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9-13, 16-20 and 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to applicant's amendment and arguments of 12/23/2008, which have been entered into the electronic file of record.

Claim Rejections - 35 USC § 103

Claims 1, 3, 9-13, 16-20 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spitz (US 5,633,488) in view of Longacre, Jr. et al. (US 5591956).

Re claim 1: Spitz teaches makes a very general statement of barcodes that clearly demonstrates that the invention as claimed is non-patentable (column 1, line 16):

“Virtually every retail product marketed in supermarkets, retail stores, discount outlets, as well as many other establishments, **utilize bar code symbols** at their point-of-sale terminals, to **monitor inventory levels**, to **generate orders for low inventory items**, etc. Parcel post companies rely heavily on the use of **bar code indicia** to **monitor the location and status of packages in transit.**”

A barcode is on an item. At a point of sale, the barcode will be sensed and this will be used to update the product status. In the above example, the inventory level of the item would be reduced if an item is sensed as being purchased and this is of course a change in the status of that item at some data store.

Lacking in Spitz is a teaching of a tiling structure which enables decoding “at any orientation.”

Longacre et al. teaches (figures 1-4 are illustrative) a 2D barcode that is not orientation-dependent. Speaking of 2D barcodes, Longacre notes (column 1, lines 52+), “These 2D matrix codes have the added advantage of being readable when scanned in any orientation.” Longacre also mentions other non-orientation-dependent codes “described in U.S. Pat. No. 4,634,850 (Pierce et al), U.S. Pat. No. 4,924,078 (Sant’ Anselmo et al), U.S. Pat. No. 4,488,679 (Bockholt et al) and U.S. Pat. No. 5,329,107 (Priddy et al). “

In view of Longacre et al., it would have been obvious to use 2D encoding such as in Spitz for the motivation that the code is still readable no matter the orientation.

Re claims 3, 16, 17, 38-42: See discussion re claim 1, above.

Re claims 9, 11, 12: Barcodes can be employed to track items both in terms of adding inventory (such as returns or new shipments) and removing inventory (i.e. by purchase at POS). As such an inventory tracking system must be able to register both of these in association with barcode reads.

Re claim 10, 13: It is also known that cash registers typically have ‘add’ and ‘remove’ buttons such that a cashier can indicate an item has been purchased or remove this indication of purchasing. The cash register can broadly be considered part of the sensing device.

Re claims 18-20:

Spitz has discussed “utilize bar code symbols at their point-of-sale terminals, to monitor inventory levels, to generate orders for low inventory items.” Of course the determination that it

is necessary to generate a new order involves comparison with some threshold, a 'predetermined number.'

Remarks

Orientation independence is common among 2D barcodes. In addition, where a 2D imager is used, the imager itself can typically perform software rotation of the code in 360 degrees. In such a case, readability in any orientation is true for any code.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. HESS whose telephone number is (571)272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel A Hess/
Primary Examiner, Art Unit 2876